

June 19, 1996

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON

700 Central Building  
810 Third Avenue  
Seattle, Washington 98104  
Telephone (206) 296-4660  
Facsimile (206) 296-1654

REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Development and Environmental Services File No. **L95P0015**  
Proposed Ordinance No. **96-410**

**LEOPOLD ADDITION**  
Preliminary Plat Application

Location: On the west side of 81st Place NE, between NE 161st Place  
and NE 162nd Street (if extended)

Applicant: James L. Leopold  
8819 Bothell Way  
Bothell, WA 98011

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary:	Approve, subject to conditions
Division's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application or petition submitted:	July 28, 1995
Notice of complete application:	July 28, 1995
Department Preliminary Report issued:	May 21, 1996

EXAMINER PROCEEDINGS:

Hearing Opened:	June 4, 1996
Hearing Closed:	June 4, 1996

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Density - subdivision lots
- Sensitive area protection - slopes
- Vegetation - tree retention
- Community Plan policy application
- Environmental policy - conditions based on environmental impacts
- Design/aesthetics - subdivisions
- Fences - when required

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Applicant:	James L. Leopold 8819 Bothell Way Bothell, WA 98011
Engineer:	Group Four, Inc. 16030 Juanita-Woodinville Way NE

Bothell, WA 98011

STR: 13-26-04  
Location: On the west side of 81st Place NE, between NE 161st Place and NE 162nd Street (if extended)  
Zoning: R-4-P  
Acreage: 1.69 acres  
Number of Lots: 6  
Typical Lot Size: Ranges from approximately 4,800 to 8,000 square feet  
Proposed Use: Single-family detached residences  
Sewage Disposal: Northshore Utility District  
Water Supply: Northshore Utility District  
Fire District: King County Fire District No. 16  
School District: Northshore School District  
Date of Application: July 28, 1995

2. Except as modified below, the facts set forth in the King County Land Use Services Division's Preliminary Report to the King County Hearing Examiner for the June 4, 1996 public hearing are found to be correct and are incorporated herein by this reference. Copies of the said report will be attached to the copies of this report submitted to the County Council.
3. The area of this proposed subdivision is undergoing rapid change from suburban/rural to urban. This is consistent with the adopted Comprehensive Plan and Northshore Community Plan. The proposed subdivision complies with the R-4-P zone classification of this property. This classification has been applied by the King County Council to the area lying west of 81st Avenue NE, between NE 165th Street and NE 150th Street.
4. The western quarter of the site is within an erosion and landslide hazard area, with steep slopes of 40% and greater. A proposed sensitive area tract will encompass the entire area within steep slopes, and a buffer area consistent with the requirements of the sensitive areas code will be established.
5. The Northshore Community Plan and Area Zoning require significant vegetation retention (Policy R-17 and P-suffix conditions; pp. 35, 225-26). Except to the extent necessary for installation of drainage facilities, vegetation will be undisturbed within the sensitive area, and significant trees will be retained within the buffer area adjacent to the steep slope. A tree retention plan is required by the P-suffix condition referenced above. Fifty percent of the significant trees within the sensitive area and buffer may be used to satisfy the requirement for retention of not less than 10% of all significant trees on the site.

Owners of surrounding properties are concerned that the proposed development will remove most, if not all, existing vegetation from the portion of the site to be developed with lots. As a consequence, trees and root systems along the north and south property lines may be damaged and weakened; off-site trees may become vulnerable to wind damage; and the appearance and character of the area will be substantially altered. No applicable code requirements would mitigate those impacts.

Policy R-9 of the Northshore Community Plan provides:

"...In-fill development at moderately higher densities should include features to enhance compatibility with existing residential neighborhoods".

King County has adopted the policies of the Northshore Community Plan as a basis for implementation of the substantive authority of the State Environmental Policy Act.

6. The internal road proposed to provide access from 81st Place NE to the lots exceeds 150 feet in length. Consequently, it does not meet fire code requirements for an approved access road as presently designed. A minimum 80-foot diameter cul-de-sac at the west terminus of the access road is required by the Fire Protection Engineer, or future residences developed on Lots 2-5 must be equipped with an approved sprinkler system to be consistent with the Uniform Fire Code, Section 902. The applicant's present intent is to maintain the current design. Consequently, sprinklers will be required for residences constructed on lots 2-5.

7. Most of the site drains to the west. This run-off is proposed to be carried by a tightline drainage pipe leading to the ravine and Class 2 stream lying westerly of the site.

Drainage from the easterly portion of the site is to the north. The drainage to the north leaves the site partially by sheet flow onto the adjacent properties, and partially via a ditch on the west side of 81st Place NE. Flooding is currently experienced by receiving properties on the west side of 81st Place NE to the north.

Upstream drainage onto 81st Place NE from the south and east, particularly from NE 161st Place, presently exceeds the capacity of the drainage system which conveys water north along the east side of 81st Place NE. Overtopping of 81st Place NE occurs frequently, resulting in damage to the roadway and hazardous conditions.

The identified problem areas for the conveyance system along the west side of 81st Place NE are downstream from the subject property. The identified problem areas for the conveyance system on the east side of 81st Place NE are directly across from the subject property and upstream, at the intersection of NE 161st Place and 81st Place NE.

The preliminary conceptual drainage plan for the proposed subdivision would convey most of the flow from the subject property to the west by pipe, avoiding the problem areas on 81st Place NE. Surface water from the eastern portion of the proposed development would be conveyed, following detention, across 81st Place NE into the system located on the east side of 81st Place NE. The connection on the east side of 81st Place NE is proposed to be made downstream of the identified problem areas. The applicant will be required to demonstrate through its engineering plans and downstream analysis that there will be no exacerbation of existing problems. If some flow can be moved from the west side of 81st Place NE to the east side, downstream of any problem areas, the construction may be able to alleviate some existing problems on the west side of 81st Place NE.

8. An application for subdivision approval does not address the design of residences which may be constructed within the proposed plat. If approved, residences may be constructed on the proposed lots consistent with requirements of the zone classification and applicable building codes. There is no county regulation or policy which would restrict the construction of two-story residences on the proposed lots.
9. In order to meet the requirements of the King County Road Standards, the access road entering the proposed subdivision is required to be offset a minimum of 100 feet (center line to center line) from other streets entering 81st Place NE. The proposed location of Tract B is designed to meet that requirement. An access road on the south side of the proposed development would create a "non-aligned intersection" with NE 161 Place, in violation of the King County Road Standards.
10. The King County Code does not require fencing within residential zones between properties of similar use. Consequently, the proposed subdivision will not be required to construct fences along property lines. Any fencing constructed on individual lots within the proposed subdivision, on adjacent lots, or along the perimeter of the subdivision, would be at the option of the property owners.
11. King County operates a school walkway program in coordination with the independent school districts within the County, and operates a neighborhood traffic control program to improve local areas where traffic hazards exist. These programs are independent of the process for subdivision approval. Although recent development is rapidly increasing the utilization of 81st Place NE, which does not meet current County standards, the addition of six lots utilizing 81st Place NE does not justify requiring improvements by the applicant beyond the frontage of the site. The applicant will be required to improve 81st Place NE adjacent to the subject property in accordance with King County urban standards, which will include installation of curb, gutter and sidewalk. As additional properties fronting 81st Place NE are developed to urban density, their frontages will be similarly improved. This is the normal method of bringing streets to urban standards as areas increase in density.

In the interim, walkway and street improvements may be accomplished through general County programs, as stated above, or by establishment of a local improvement district.

12. Construction noise is regulated by the King County Noise Control Ordinance. Parking of construction vehicles is ordinarily accommodated, to the extent feasible, on the site being developed. To the extent that parking cannot be accommodated on site, parking is permitted on the public rights of way in the vicinity. In the event the public safety is threatened by excessive parking on streets in the area, temporary restrictions can be established by King County and enforced by the Department of Public Safety.

#### CONCLUSIONS:

1. To comply with Community Plan Policy R-9, the development should be required to retain significant existing vegetation along the property lines to the extent it is feasible to do so without diminishing the usable area of the proposed lots or unduly interfering with development of the site. The significant tree retention plan required by the area zoning should identify the existing significant vegetation along the north and south property lines and the frontage of 81st Place NE, indicating the extent to which that vegetation can be retained consistent with the foregoing policy.
2. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Northshore Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
3. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
4. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
5. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonably necessary as a direct result of the development of this proposed plat.
6. No additional modifications or requirements concerning the design of this subdivision are required by King County codes or reasonably necessary to avoid or mitigate adverse impacts of the proposed development on the environment.

#### RECOMMENDATION:

GRANT preliminary approval to the proposed plat of LEOPOLD ADDITION, subject to the 19 conditions of final plat approval as set forth on pages 8 through 13 of the Department's Preliminary Report to the Examiner dated June 4, 1996 (Exhibit No. 2), and as modified by the following three additional recommended conditions:

20. The existing house shall be removed prior to final approval/ recording.
21. The applicant shall provide a minimum 80-foot diameter cul-de-sac at the west termination of Tract B; OR all future residences constructed on Lots 2, 3, 4, and 5 must be sprinklered, unless otherwise approved by DDES and the Fire Marshall. If the option of required sprinklers is elected by the applicant, this requirement shall be noted on the face of the plat.

22. A tree retention plan shall be submitted consistent with the Northshore Community Plan and area zoning. The engineering plans shall indicate significant trees to be retained through plat development, which shall include all significant trees on the north, east and south plat boundaries which do not substantially interfere with plat development, including road, drainage facility, and utility installation, and the reasonable use of the lots. The tree retention plan shall be subject to approval of the Land Use Services Division.

RECOMMENDED this 19th day of June, 1996.

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James N. O'Connor  
King County Hearing Examiner

TRANSMITTED this 19th day of June, 1996, to the following parties and interested persons:

Will & Jacqueline Dahl	Cory Hamilton
King Conservation District	Mark Langley
James Leopold	Kelly McCulloch
John Mirante/Group Four	Mark and Belinda Pratt
John L. Scott Land Dept.	Thomas and Christine Stapp

Steve Bottheim, DDES/Land Use Services Division  
Kim Claussen, DDES/Land Use Services Division  
Peter Dye, DDES/Land Use Services Division  
Tom Koney, Metropolitan King County Council  
Michaelene Manion, DDES/Land Use Services Division  
William Mudd, LUSD/Building Services  
Anna Nelson, DDES/Building Services  
Paulette Norman, Dept. of Transportation/Road Services Division  
Lisa Pringle, DDES/Land Use Services Division  
Steve Townsend, DDES/Land Use Services Division  
Angelica Velasquez, DDES/Land Use Services Division

NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before July 3, 1996. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before July 10, 1996. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE JUNE 4, 1996 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L95P0015 - LEOPOLD ADDITION:

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Peter Dye, Paulette Norman, William Mudd, John Mirante, William Dahl, Mark Langley, Mark Pratt, and Kelly McCulloch.

The following exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services File No. L95P0015
Exhibit No. 2	Department of Development and Environmental Services Preliminary Report to the King County Hearing Examiner for the June 4, 1996 public hearing
Exhibit No. 3	Application, dated July 28, 1995
Exhibit No. 4	Environmental Checklist, dated July 28, 1995
Exhibit No. 5	Declaration of Non-Significance, dated April 23, 1996
Exhibit No. 6	Affidavit of Posting indicating May 2, 1996 as date of posting and June 4, 1996 as date affidavit was received by DDES
Exhibit No. 7	Preliminary Plat dated July 28, 1996
Exhibit No. 8	Land use map
Exhibit No. 9	Assessor Maps NE 13-26-4
Exhibit No. 10	Geotech Report - Terra Associates, April 26, 1995
Exhibit No. 11	Conceptual Drainage Plan, July 28, 1995
Exhibit No. 12	Fire Marshall conditions - August 7, 1995
Exhibit No. 13	Land Use Services Division additional recommended conditions

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